

REMARKS

I. Introduction

Claims 1-29 are pending in the above application.

Claims 1-29 stand rejected under 35 U.S.C. § 103 as being obvious.

Claims 1, 2, 11 and 18 have been amended. No new matter has been added.

Claims 1, 13, 22 and 23 are independent claims.

II. Prior Art Rejections

Claims 1-29 stand rejected under 35 U.S.C. § 103 as being unpatentable over Candelore (U.S. Pat. 6,697,489) (hereafter “Candelore ‘489”) in view of Candelore et al. (U.S. Pub. 2003/0188162) (hereafter “Candelore ‘162”).

Neither Candelore ‘489 nor Candelore ‘162, taken alone or in combination disclose or suggest the claimed invention recited by the above amended claims. Candelore ‘489 discloses to secure control words for scrambled digital content by using encrypted control words which are decrypted by a key in the descrambler. Candelore ‘489, abs. Candelore ‘489 does not disclose to use a key register in a first body which cannot be overwritten after a programmability period in which the first key is loaded in the first key storage, and a second key storage register in a second body which is non-readable from outside the second body, the second key storage register being writable while being non-readable as substantially recited in Applicant’s amended claims.

In the Final Office action, the Examiner kindly explains that a smart card in Candelore ‘489 is interpreted as Applicant’s first chip package, and the conditional access unit 401 (aka the “set top, TV, or NRSS-B module 401”). Final Office action, pg. 5. The Examiner then goes on

to assert that the Candalore's discussion regarding writing to register 450 meets Applicant's claim language for the first chip package. Final Office action, pg. 2, and pg. 7. However, register 450 is not in the smartcard, but rather in the "set top, TV, or NRSS-B module 401". See, Fig. 2; col. 7, lines 1-10. The smartcard is element 410, which is clearly not described as being "write once", as it must be paired with module 401. See, Fig. 2; col. 7, lines 11-20. Moreover, in Candalore, the decryption block 460 is contained in the same element which is only write once, whereas Applicant's invention contains a decryption engine with an element which is not write once. Accordingly, the Examiner appears to use inconsistent interpretations of Candalore '489 in an effort to maintain the rejection. However, it is clear that Candalore '489 does not disclose to use a key register in a first body which cannot be overwritten after a programmability period in which the first key is loaded in the first key storage, and a second key storage register in a second body which is non-readable from outside the second body, the second key storage register being writeable while being non-readable as substantially recited in Applicant's amended claims.

As explained in Applicant's previous response, Candalore '162 merely discloses to restrict access to a hard drive by "locking" the hard drive using a randomly generated key, hereafter referred to as the "hard drive locking key". Candalore '162, paras. [0030 – 0034]. The hard drive locking key discussed in Candalore '162 does not appear to be used for encrypting the content of data contained on or provided by the hard drive, aka is not used by an encryption engine "to produce ciphertext content", as recited by at least Applicant's claim 1. Moreover, the hard drive locking key is a randomly generated key which changes at each use, and hence is constantly overwritten. Candalore '162, para. [0031] "the first key is a random number generated by the host each time a hard drive needs to be locked[. T]his is to prevent 'spoofing'

and unlocked hard drive.” Candelore ‘162 also explains that the key is stored in “the hard drive’s flash memory”, which is typically a rewritable memory. Oddly, the Examiner merely “disagreed” with Applicant’s discussion but failed to identify any reason for the disagreement. Instead, the Examiner merely directed Applicant to Candelore ‘489, which is clearly not a reason to refute Applicant’s discussion of Candelore ‘162.

Accordingly, Candelore ‘162 also does not disclose to use a key register in a first body which cannot be overwritten after a programmability period, as substantially recited in Applicant’s claims.

Applicant also explained that Candelore ‘162 is not even analogous art and even teaches away from the claimed invention according to accepted legal principles. Specifically, Applicant explained that, the hard drive locking key discussed in Candelore ‘162 is not a key used for encryption to produce ciphertext, and hence is not analogous art to Applicant’s invention as it is not in the same field of endeavor or concerned with the same problems faced by Applicant. Finally, Candelore ‘162 actually appears to teach away from a system which prevents rewriting a key register since Candelore ‘162 discloses constantly change the key to avoid a concern of ghosting. Hence the combination of Candelore ‘489 and Candelore ‘162 does not produce the claimed invention as it does not disclose all of the claimed limitations in any of independent claims 1, 13, 22 or 23. Moreover, the combination is improper as applied against the claimed invention because Candelore ‘162 is not analogous art and actually teaches away from Applicant’s invention.

In response to the legally test for analogous art, rather than discussing the actual merits of Candelore ‘162, the Examiner appears to rely on antidotal evidence, such as common inventorship and common assignee, and use of a disk drive as a storage element in a set top box.

While perhaps creative, none of the antidotal evidence proffered by the Examiner addresses the question as to whether what is actually disclosed in Candelore '162 is analogous art, and has little to do with meeting the legal requirements.

Even more remarkably, the Examiner does not respond to Applicant's discussion of "teaching away" at all. Instead, the Examiner directs attention away from Candelore '162 and relies on the disclosure of Candelore '489. Clearly, the disclosure in Candelore '489 cannot cure or otherwise remove, the disclosure in Candelore '162.

Candelore '162 is clearly not analogous art and clearly teaches away from the claimed invention. Hence, the rejection cannot be maintained.

III. Conclusion

Having fully responded to the Office action, the application is believed to be in condition for allowance. Should any issues arise that prevent early allowance of the above application, the examiner is invited contact the undersigned to resolve such issues.

To the extent an extension of time is needed for consideration of this response, Applicant hereby request such extension and, the Commissioner is hereby authorized to charge deposit account number 502117 for any fees associated therewith.

Respectfully submitted,

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